

**CALENDAR ITEM  
C56**

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04/20/17  
PRC 3249.1  
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**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Vishal Mehta

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Midway Channel of Huntington Harbour, adjacent to 3292 Gilbert Drive, city of Huntington Beach, Orange County.

*AUTHORIZED USE:*

Use and maintenance of an existing boat dock, access ramp, and cantilevered deck.

*LEASE TERM:*

10 years, beginning April 20, 2017.

*CONSIDERATION:*

\$3,085 per annum, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

Liability insurance in an amount no less than \$1,000,000 per occurrence;

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

**Public Trust and State's Best Interests Analysis:**

On November 15, 1994, the Commission authorized the issuance of Lease No. PRC 3249.9, a Recreational Pier Lease, to William L. Boucher, for a term of 10 years ([Calendar Item C23, November 15, 1994](#)). That lease expired on January 23, 2005. On November 4, 2016, ownership of the subject parcel was transferred to the Applicant, Vishal Mehta. The Applicant is now applying for a new lease.

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Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5). The subject facilities, consisting of a boat dock, access ramp, and cantilevered deck, are privately owned and maintained and located within the Midway Channel. The boat dock and access ramp facilitate recreational boating because they are used for the docking and mooring of recreational boats.

The Midway Channel in Huntington Harbour was created in the early 1960s and the adjacent upland parcel is privately owned and developed with a residence. There is no public access at this upland property because the private upland property directly abuts the concrete bulkhead that defines the limits of the channel. The boat dock extends to the pier head line that is 30 feet into the 200-foot-wide channel leaving the majority of the Midway Channel available for navigation and public recreation. The cantilevered deck extends no more than five feet over the Midway Channel, and does not substantially interfere with the public right of navigation or access.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

### **Climate Change:**

The impacts of sea-level rise, including increased wave activity, storm events, and flooding, are not limited to the open coast. The existing structures are located within the Huntington Harbour development, along an inland, navigable, tidally-influenced channel, and may be vulnerable to the impacts of sea-level rise. The lease area contains fixed features, including pilings, a bulkhead, and a cantilevered deck; and movable features, including a floating recreational dock and access ramp, all connected to a single-family residential home. This lease is one of more

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than a hundred in the highly trafficked Huntington Harbour. Huntington Harbour is built at sea level, and as a result is vulnerable to flooding and storm surge events. Huntington Harbour is adjacent to two wetlands, Bolsa Chica and the Seal Beach National Wildlife Refuge, which could act as natural buffers to storm surges and lessen flood risks. Past flood events reached more than halfway up the exposed height of the pilings, which do not extend more than a few feet above the dock, as evidenced by photographs included with the lease application.

By 2030, the region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). As stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). The combination of these conditions will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. In rivers and tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater beach or bank erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. Flooding conditions could cause structures to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. The floating nature of the movable features will allow them to rise and fall with tides and waves, increasing their resiliency to some sea-level rise impacts. The fixed features may need to be raised or reinforced to withstand future conditions; in particular, the bulkhead underneath the deck serves to stabilize the bank, and loss or degradation of this structure would result in property damage and public safety concerns within the lease area and the surrounding waterways. More locally-based knowledge of sea-level rise impacts and adaptation strategies will be available to Huntington Harbour residents as a result of the ongoing efforts to update the City of Huntington Beach's Local Coastal Program and General Plan, and through the city's Coastal Resiliency Task

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Force. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgment that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

**Conclusion:**

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission accept compensation for the unauthorized occupation of State land in the amount of \$1,411 for the period beginning November 4, 2016, the date the Applicant took ownership of the upland property, through April 19, 2017. The Applicant does not qualify for rent-free status pursuant to Public Resources Code section 6503.5. The proposed lease includes a provision requiring the Applicant to pay this past compensation.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon

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staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

1. Authorize acceptance of compensation in the amount of \$1,411 for the unauthorized occupation of State land for the period beginning November 4, 2016 through April 19, 2017.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 20, 2017, for a term of 10 years, for the use and maintenance of an existing boat dock, access ramp, and cantilevered deck, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; Consideration in the amount of \$3,085 per annum with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000 per occurrence.

## **EXHIBIT A**

**PRC 3249.1**

### **LAND DESCRIPTION**

A parcel of submerged land in Huntington Harbour, in the City of Huntington Beach, Orange County, California, described as follows:

BEGINNING at the most southerly corner of Lot 11, as said lot is shown and so designated on that certain map of Tract No. 4677 filed in Book 168, Pages 14 through 18 of Miscellaneous Maps, Official Records of said County; thence along the southeasterly prolongation of the southwesterly line of said lot 30.00 feet to a line parallel with the southeasterly line of said lot; thence northeasterly along said parallel line to the southeasterly prolongation of the northeasterly line of said lot; thence northwesterly along said southeasterly prolongation 30 feet to the most easterly corner of said lot; thence southwesterly along southeasterly line of said lot to the point of beginning.

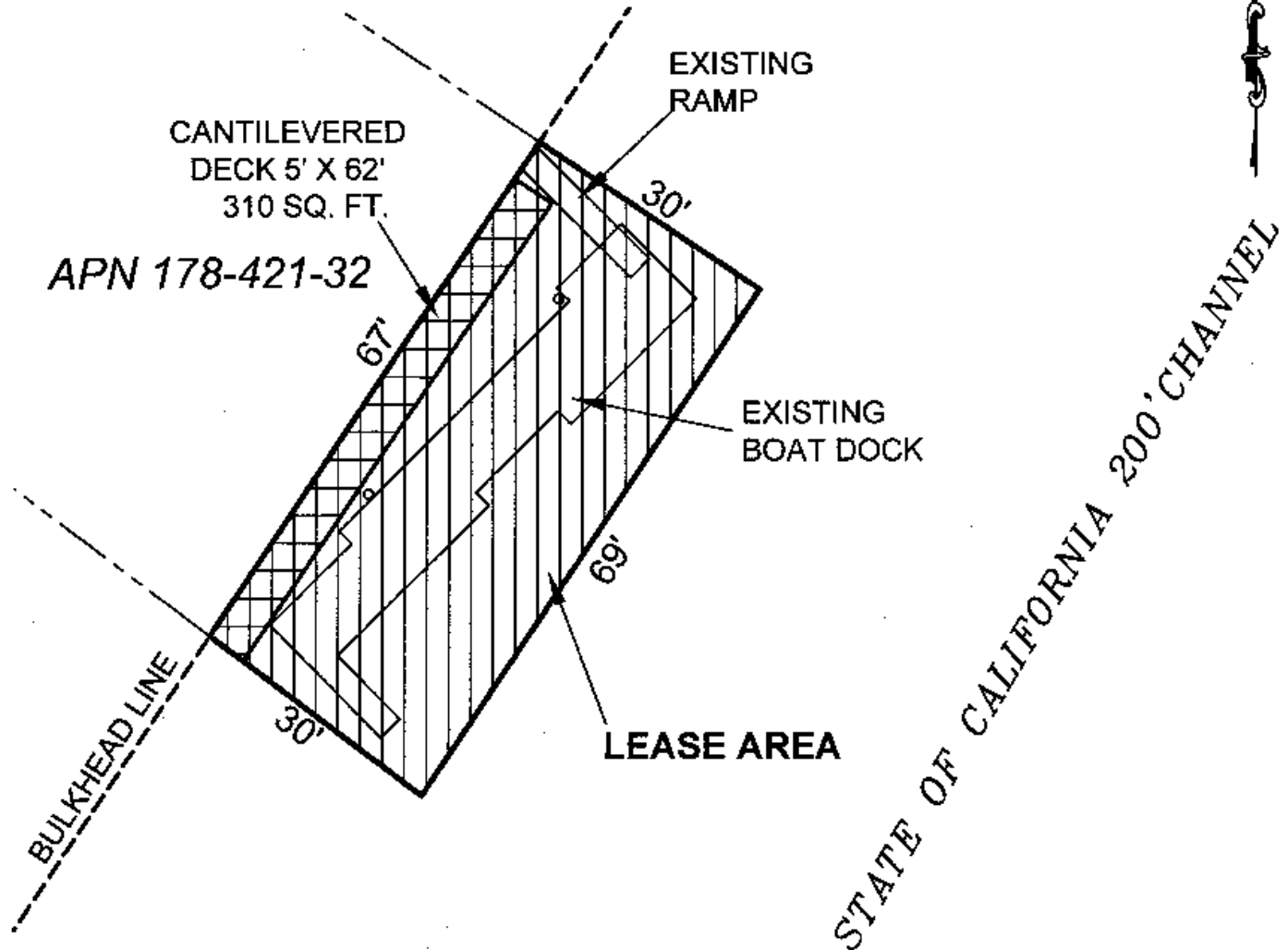
### **END OF DESCRIPTION**

Prepared 02/27/17 by the California State Lands Commission Boundary Unit



NO SCALE

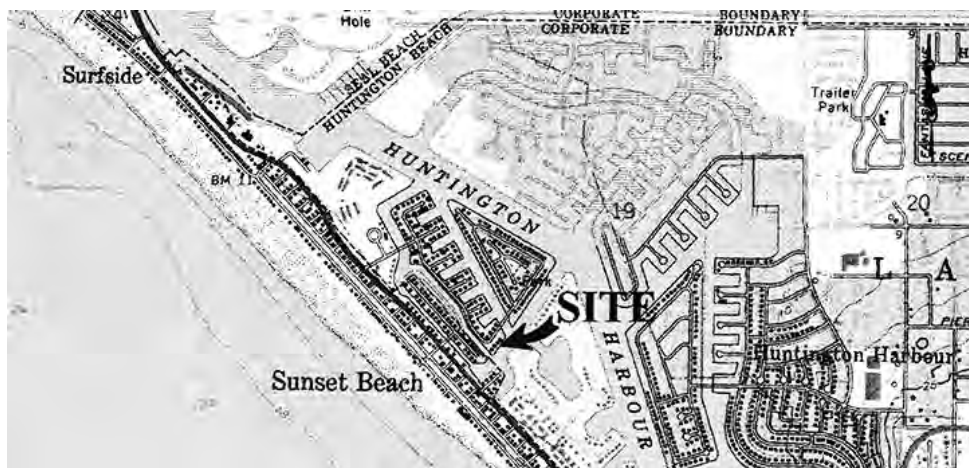
## SITE



3292 GILBERT DRIVE, HUNTINGTON BEACH

NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

## **Exhibit B**

PRC 3249.1

MEHTA

APN 178-421-32

GENERAL LEASE -  
RECREATIONAL USE  
ORANGE COUNTY



TS 02/27/17